(5)

No. 99-1379

Supreme Court, U.S.
FILED
AUG 7 2000
CLERK

IN THE

Supreme Court of the United States

CIRCUIT CITY STORES, INC.,
Petitioner,

v.

SAINT CLAIR ADAMS,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

JOINT APPENDIX

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Petition for Certiorari Filed February 16, 2000
Certiorari Granted May 22, 2000

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CHRONOLOGICAL LIST OF DOCKET ENTRIES

I. U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA (Case No. 98-CV-365)

1/30/98	PETITION by Petitioner Circuit City Stores, Inc. to stay state court action and to compel arbitration, with MEMORANDUM of points and authorities in support thereof, (No Summons Issued), Fee status paid entered on 1/30/98 in the amount of $150.00 (receipt #:45864) [3:98-cv-00365] (tn)
1/30/98	DECLARATION of Pamela G. Parsons on behalf of Petitioner Circuit City Stores, Inc. in support of its petition [1-1] [3:98-cv-003651 (tn)
1/30/98	RECEIVED [Proposed] Order staying state court action and compelling arbitration (Petitioner Circuit City Stores, Inc.) [3 :98-cv-00365] (tn)
1/30/98	ORDER RE COURT PROCEDURE and SCHEDULE by Judge Charles A. Legge: Proof of service to be filed by 3/16/98; counsels' case management statement to be filed by 5/26/98; and initial case management conference will be held at 11:00 a.m. on 6/5/98 (cc: all counsel) (tn)
2/4/98	NOTICE of hearing by Petitioner on its petition to stay state court action and to compel arbitration on 3/6/98 at 9:30 a.m. [3:98-cv-00365] (tn) [Entry date 02/06/98]
2/4/98	Docket Modification (Administrative) hearing will be held on 3/6/98 at 9:30 a.m. on petition to stay state court action and to compel arbitration [3:98-cv-00365] (tn) [Entry date 02/06/98]

2/5/98 PROOF OF SERVICE by Petitioner of petition to stay state court action and to cannel arbitration [0-0], motion notice [4-1], case management schedule order [3-1], declaration [2-1] , order received [0-0] , petition [1-1] [3 :98-cv-00365] (tn) [Entry date 02/10/98]

2/10/98 CLERK'S NOTICE Re-setting hearing on plaintiff's petition to stay state court action and to compel arbitration to 3/13/98 at 9:30 a.m. [3:98-cv-00365] (tn) [Entry date 02/11/98]

2/10/98 NOTICE by Petitioner of pendency of other action or proceeding [3:98-cv-003'05] (tn) [Entry date 02/11/98]

2/20/98 MEMORANDUM of points and authorities by respondent/defendant in opposition plaintiff/petitioner's petition/motion [1-1] [3:98-cv-00365] (tn) [Entry date 02/26/98]

2/25/98 NOTICE OF MOTION AND MOTION WITH MEMORANDUM OF POINTS AND AUTHORITIES before judge Charles A. Legge by Petitioner for rule 11 sanctions with Notice set for 9:30 a.m. on 4/3/98 [3:98-cv-00365] (tn) [Entry date 02/26/98]

2/25/98 DECLARATION of Rex Darrell on behalf of Petitioner in support of its motion for rule 11 sanctions [9-1] [3:98-cv-00365] (tn) [Entry date 02/26/98]

2/25/98 RECEIVED [Proposed] Order granting Petitioner's motion for rule 11 sanctions [9-1] [3:98-cv-00365] (tn) [Entry date 02/26/98]

2/27//98 REPLY MEMORANDUM by Petitioner to opposition and in support of petition to stay state court action and to compel arbitration [3:98-cv-00365] (tn) [Entry date 03/03/98]

3/2/98 PROOF OF SERVICE by Petitioner of motion reply [11-1] [3:98-cv-00365] (tn) [Entry date 03/03/98]

3/5/98 RECEIVED [Proposed] Stipulation and Order to continue hearing date of motion (defendant) [3:98-cv-00365] (tn) [Entry date 03/10/98]

3/10/98 STIPULATION and ORDER by Judge Charles A. Legge re-setting hearing on petition [1-1] at 9:30 a.m. on 4/3/98 (cc: all counsel) [3:98-cv-00365] (tn) [Entry date 03/12/98]

3/13/98 MEMORANDUM of points by defendant in opposition to plaintiff's motion for rule 11 sanctions [9-1] [3:98-cv-00365] (tn) [Entry date 03/18/98]

3/13/98 DECLARATION of Angela M. Alioto on behalf of defendant in support of its opposition memorandum [14-1] [3:98-cv-00365] (tn) [Entry date 03/18/98]

3/20/98 REPLY MEMORANDUM by Petitioner to opposition and in support of its motion for rule 11 sanctions [9-1] [3:98-cv-00365] (tn) [Entry date 03/23/98]

4/3/98 MINUTES: (C/R JoAnn Bryve) (Hearing Date: 4/3/98) granting plaintiff's motion to stay state court proceeding & to compel arbitration; denying plaintiff's motion for rule 11 sanctions [9-1]; petitioner to prepare order [3:98-cv-00365] (tn) [Entry date 04/07/98]

4/15/98 REPORTER'S TRANSCRIPT; Date of proceedings: 4/3/98 (C/R: JoAnn Bryce) [3:98-cv-00365] (tn) [Entry date 04/16/98]

4/29/98 OPINION AND ORDER: by Judge Charles A. Legge granting petitioner's petition to stay State Court action and to compel arbitration [1-1]; denying petitioner's motion for rule 11 sanctions [9-1], and terminating case; appeal filing ddl 6/1/98 (Entered: 5/1/98) (cc: all counsel) [3:98-cv-00365] (tn) [Entry date 05/01/98]

II. U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT (Case No. 98-1 5992)

6/2/98 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): YES. Setting schedule as follows: CADS is past due; CADS must be filed no later than 6/9/98; appellant's designation of RT is due 6/8/98; appellee's designation of RT is due 6/17/98; appellant shall order trancript by 6/29/98; court reporter shall file transcript in DC by 7/28/98; certificate of record shall be filed by 8/4/98; appellant's opening brief is due 9/14/98; appellees' brief is due 10/13/98; appellants' reply brief is due 10/27/98; [98-15992] (sm)

6/8/98 Filed order MOATT (KG) A review of the record suggests that this court may lack jurisdiction over the appeal because the order being appealed Is not an appealable, (CITE) Within 14 days after entry of this order, aplt shall move for voluntary dismissal of the appeal or show cause why it should not be dismissed for lack of jurisdiction. If aplt elects to show cause, aple may respond within 10 days after serv of aplt's memorandum. If aplt does not comply with this order, the clk shall dismiss this appeal pursuant to 42-1. Briefing is suspended pending further order of the court. [98-15992] (dg)

6/22/98 Filed Appellant's response to order of 6/8/98, [3465850-1] ; served on 6/22/98 (MOATT) [98-15992] (dg)

6/29/98 Filed order CONFATT (em) The Court of Appeals' records do not indicate that spit has tiled a CADS In accordance with Cir R 3-4. This may be a result of an oversight by counsel or a mistake in processing by the DC or this court. Within 1 4 days of the filing date of this order, aplt shall file a CADS, contact the clerk and assist location of the docketing statement if one is already filed, or dismiss the appeal voluntarily. If aplt has already filed the CADS or files it in response to this order, aplt is requested to serve a copy along with any attachments, on the Circuit Mediation Office in SF. [98-15992] (dg)

7/9/98 Filed Civil Appeals Docketing Statement served on 7/8/98 to CONFATT [98-15992] [98-15992]

7/10/98 Filed order (Appellate Commissioner: PLS) The court has received appellant's response to this court's 06/08/98 order to show cause. The court discharges the order to show cause. Appellant shall designate the reporter's transcript by 07/1/98, The transcript is due 08/17/98. Appellant's opening brief and excerpts of record are due 09/28/98; appellee's brief is due 10/28/98; the optional reply brief is due within 14 days after service of appellee's brief. Received [98-15992] (sm)

7/17/98 Received Appellant notice of designation of reporter's transcript. (no further RTs will be ordered) [98-15992] (dg)

8/14/98 Filed order CONFATT (BLS) Case referred to Confatt for assessment conference only. Conference to be on 9/15/98 at 11:00 a.m. PT, by telephone (y/n): yes. The briefing schedule remains in effect. . [98-1599 (dg)

9/18/98 Filed order CONFATT (CLB) The briefing schedule previously set by the court is amended as follows: appellants' brief, excerpts of record are due 10/13/98; appellees brief due 11/20/98; the reply brief is due 14 days from date of serv of aple's brief. We court has determined that this appeal will not be selected for Inclusion in the Mediation Program. All further inquiries regarding this appeal, including requests for ext of time, should be directed to the clerk's office. [98-15992](dg)

10/13/98 Filed original and 5 copies Appellant Saint Clair Adams opening brief (Informal: no) 40 pages and five excerpts of record in 1 volumes; served on 11/3/98 [98-1599 (dg)

11/23/98 Filed original and 15 copies appellee Circuit City Stores' 55 pages brief, 5 Supp. Exc. in 1 vol.; served on 11/19/98 [98-15992] (crw)

7/13/99 Calendar check performed [98-15992] (mw)

7/27/99 Calendar materials being prepared. [98-1692] [98-15992] (aw)

8/3/99 CALENDARED: Pasadena Oct 4, 1999 9:00 a.m. Courtroom 3 [98-159923 (th)

8/3/99 Filed Circuit City Stores additional citations, served on 7/30/99 (fax/pnl) [98-15992] (ot)

9/10/99 Filled order (Deputy Clerk: ah) The parties are ordered to file suppl brfs on or before 9/24/99, and should not exceed 10 pages on the following issues: The parties are further ordered to provide a courtesy copy of the suppl brfs to the clerks office in Pasadena. FAXED TO CSL AT 2:15 P.M.) [98-15992] (gall)

9/24/99 Filed Circuit City Stores additional citations, served on 9/23/99 (PANEL by express) [98-15992] (dg)

9/24/99 Filed original and 15 copies appellee Circuit City Stores supplemental brief of 10 pages, served on 9/23/99 (PANEL. by fax) [98-15992] (dg)

9/24/99 Filed original and IS copies Appellant Saint Clair Adams supplemental brief of 8 pages, served on 9/24/99 [98-15992] (dg)

10/4/99 ARGUED AND SUBMITTED TO Betty B. FLETCHER, Dorothy W. NELSON, Melvin BRUNETTI 98-15992] (rmv)

11/18/99 FILED OPINION: REVERSED & REMANDED (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. Betty B. FLETCHER; Dorothy W; NELSON, author; Melvin BRUNETTI.) FILED AND ENTERED JUDGMENT. [98-15992] (dg)

12/10/99 MANDATE ISSUED [98-15992] (jjf)

12/15/99 Filed Circuit City Stores motion to recall the mandate, served on 12/14/99 [3810825] (PANEL by express mail, too voluminous to fax) (dg)

1/19/00 Filed Circuit City Stores additional citations, served on 11/8/00 (in sup ort of motion to recall mandate) (PANEL by fax) [98-15992] (dg)

2/23/00	Received notice from Supreme Court: petition for certiorari filed Supreme Court No. 99-1379 filed on 2/16/00. [98-1592] (gail)
3/2/00	Received Rex Darrell Berry for Appellee Circuit City Stores letter dated 03/01/00 re: Circuit City Stores, Inc. filed a writ of certiorari. Appelle is requesting that pending motion to recall the mandate be granted (AUTHORING JUDGE) [98-15992] (sm)
3/9/00	Filed order (Betty B. FLETCHER, Dorothy W. NELSON, Melvin BRUNETTI): The mtn of aple Circuit City to stay or recall the mdt is granted. The mdt issued 12/20/99 is recalled. The issuance of the mdt shall be stayed until the Supreme Court's final decision in 99-1379. [913-15992] (crw)
5/25/00	Received notice from Supreme Court, petition for certiorari GRANTED on 5/22/00 limited to Question 1 presented by the petition. Supreme Court No. 99-1379 (dg)

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CIRCUIT CITY STORES, INC., a Virginia corporation,	CASE NO. C 98-0365
Petitioner/Plaintiff,	DECLARATION OF PAMELA G. PARSONS IN SUPPORT OF PETITION TO STAY STATE COURT ACTION AND TO COMPEL ARBITRATION
vs.	
SAINT CLAIR ADAMS, a California resident,	
Respondent/Defendant.	

I, Pamela G. Parsons, do hereby declare as follows:

1. I currently am employed by Circuit City Stores, Inc. ("Circuit City") in the position of Associate General Counsel. I am a member of management with authority over circuit City's Arbitration Program. I have personal knowledge of the facts stated herein.

2. Circuit City is, and at all material times was, a Virginia corporation with its principal place of business in Richmond, Virginia. Circuit City is a corporate citizen of Virginia, and is authorized to do business within the State of California.

3. On November 26, 1997, Saint Clair Adams filed a civil action against Circuit City and three individual defendants employed by Circuit City, in the Superior Court of the State of California for Sonoma County, Superior Court Case No. S-CV-217898 ("the original underlying lawsuit"). The original underlying lawsuit was served on Circuit City on January 2, 1998. Mr. Adams served a First Amended Complaint ("the amended underlying lawsuit") on Circuit City effective January 26, 1998.

4. On or about October 23, 1995, as a part of his application process with Circuit City, Saint Clair Adams, like all applicants, entered into the Circuit City Dispute Resolution Agreement, by which he agreed to arbitrate any and all employment-related legal disputes with Circuit City. Attached hereto as Exhibit A is a true and correct copy of the Dispute Resolution Agreement executed by Mr. Adams on October 23, 1995. Circuit City records identify December 1, 1995 as Mr. Adams' actual date of hire. Attached hereto as Exhibit B is a true and correct copy of a Circuit City internal document entitled "New Hire Maintenance Screen" identifying Mr. Adams' date of hire as December 1, 1995.

5. As part of the job application process, prospective applicants are provided with a copy of Circuit City's Dispute Resolution Rules and Procedures, a true and correct copy of the document which would have been given to Mr. Adams is attached hereto as Exhibit C. Saint Clair Adams acknowledged receipt of same when he executed the Dispute Resolution Agreement.

6. Prospective applicants have a choice whether to enter into the Dispute Resolution Agreement. Applicants who initially choose to participate are advised in writing by the

Dispute Resolution Agreement that they have three days within which to withdraw their consent and application for employment to avoid being bound by the Dispute Resolution Agreement. Saint Clair Adams did not withdraw his consent to binding arbitration, or application within the three-day period.

7. Circuit City does not consider an application for employment unless the Dispute Resolution Agreement is signed. By executing the Dispute Resolution Agreement, Saint Clair Adams agreed to be bound by the same Dispute Resolution Rules and Procedures as are all associates who applied for work with Circuit City after March 1995.

8. On December 9, 1997, Circuit City received from Saint Clair Adams an Arbitration Request Form and cashier's check for $75.00. Attached hereto as Exhibit D are true and correct copies of those documents. On the Arbitration Request Form, Mr. Adams identifies his own date of hire by Circuit City as "November 3, 1995." Id. Circuit City responded to Mr. Adams' Request for Arbitration by submitting an Arbitration response Form in a timely manner. A true and correct copy of the Circuit City Arbitration Response Form is attached hereto as Exhibit E.

9. Circuit City refers to all applicants, current and former employees as "Associates."

10. This Declaration is made by me voluntarily. I have been promised no benefit, nor threatened with any reprisal in connection with this Declaration.

I declare under penalty of perjury under the laws of the Commonwealth of Virginia that the foregoing is true and correct.

Date: January 28, 1998 /S/ Pamela G. Parsons
Pamela G. Parsons

Place: Richmond Virginia

EMPLOYMENT APPLICATION

(Confidential)

CIRCUIT CITY STORES, INC. IS AN EQUAL OPPORTUNITY EMPLOYER BY BOTH POLICY AND PRACTICE AND COMPLIES WITH ALL FEDERAL AND STATE LAWS WHICH FORBID DISCRIMINATION.

IT IS UNLAWFUL IN MASSACHUSETTS TO REQUIRE OR ADMINISTER A LIE DETECTOR TEST AS A CONDITION OF EMPLOYMENT OR CONTINUED EMPLOYMENT. AN EMPLOYER WHO VIOLATES THIS LAW SHALL BE SUBJECT TO CRIMINAL PENALTIES AND CIVIL LIABILITY.

NAME (LAST, FIRST, MIDDLE INITIAL): ABAJI, ST. CLAIR

SOCIAL SECURITY NUMBER: 547-45-8663

STREET: PO Box 816

CITY: Wilbraham STATE: MA ZIP CODE: 01095

HOME PHONE: (707) 575-4648

WORK PHONE: (707) 575-4648

Thank you for considering Circuit City as an employer. To ensure that we make a hiring decision that is right for us and you, we use a number of different selection tools and consider a great amount of information before a decision is made. As you go through the employee selection process, you may come in contact with some or all of the following selection tools.

1. Employment Application — Complete all sections which pertain to you. Do not include a resume as a substitute for incomplete information. Sign and date the application. The employment application allows Circuit City to determine your qualifications and experience. By signing the application, you authorize Circuit City to verify the information contained in the application. Falsification of information on the application or failure to provide accurate information can result in disqualification for employment or termination of employment if discovered after hire.

2. Dispute Resolution Agreement — This agreement requires you to arbitrate any legal dispute related to your application for employment or employment with Circuit City. Circuit City will not consider your application unless this agreement is signed.

3. Employment Interviews — Several personal (or telephone) interviews may be conducted with you in order to provide more detailed information regarding your background and qualifications.

4. Employment Eligibility Verification — This form is required by the U.S. Department of Justice and the Immigration and Naturalization service. It is used to verify your identity and right to work in the United States.

5. Employment Testing — Various tests may be administered to measure your aptitude and abilities in job related areas. While most tests are short, some administered to management level candidates may take several hours.

6. Test for Evidence of Substance Abuse — This is a urinalysis test for abusive levels of any chemical substance.

7. Reference Checks — Former employers and educational references are verified prior to an offer of employment.

8. Records Checks — Verification and information checks with the Social Security Administration, criminal courts, state and county repositories of criminal records, Department of Motor Vehicles, and credit bureaus.

9. Physical Examination — Some positions in the Company require the applicant to take a physical examination .

10. Loss Prevention Interview — During this interview, you will be asked questions concerning your employment application, any current and past involvement with illegal drugs, any prior felony convictions, any adverse information from prior employers, and other related matters.

Exhibit A Page 1 of 6

Form # P1160 / Rev. 1/95

BEST AVAILABLE COPY

If you wish to be considered for employment you must read and sign the following agreement. You will not be considered as an applicant until you have signed the Agreement. With this application you should have received the *Rules and Procedures of the Agreement*. You should familiarize yourself with these rules and procedures prior to signing the Agreement. If you did not receive the Rules and Procedures you must request a copy from a Circuit City representative prior to signing the Agreement. You will note that if you sign at this time you do have three (3) days to withdraw your consent. You may, of course, take the package with you and return with it signed, if you wish to continue your application process.

CIRCUIT CITY DISPUTE RESOLUTION AGREEMENT

I recognize that differences possibly may arise between Circuit City Stores, Inc. and me during my application or employment with Circuit City (Circuit City Stores, Inc. includes affiliate companies such as CarMax, Patapsco Designs and FNANB). I recognize that it is in the interest of both Circuit City and me that all disputes be resolved in a manner that is fair, private, expeditious, economical, final and less burdensome or adversarial than court litigation. Circuit City has an effective Open Door Policy, and I will try to take advantage of it where feasible. I understand, however, that not all issues can be resolved using the Open Door Policy.

I agree that I will settle any and all previously unasserted claims, disputes or controversies arising out of or relating to my application or candidacy for employment, employment and/or cessation of employment with Circuit City, **exclusively** by final and binding **arbitration** before a neutral Arbitrator. By way of example only, such claims include claims under federal, state and local statutory or common law, such as the Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, as amended, including the amendments of the Civil Rights Act of 1991, the Americans with Disabilities Act, the law of contract and law of tort.

I understand that if I do file a lawsuit regarding a dispute arising out of or relating to my application or candidacy for employment, employment or cessation of employment, Circuit City may use this Agreement in support of its request to the court to dismiss the lawsuit and require me instead to use arbitration.

I understand that I still may file administrative charges with the Equal Employment Opportunity Commission or similar federal, state or local agency, but that upon receipt of a right-to-sue letter or similar administrative determination, I shall arbitrate any claim that I may have against Circuit City.

I understand that I must file a claim for arbitration within one (1) year of the day on which I learned or, through reasonable diligence, should have learned that my legal rights were violated. I further agree that if I commence an arbitration, it will be conducted in accordance with the "Circuit City Dispute Resolution Rules and Procedures."

I understand that neither this Agreement nor the Dispute Resolution Rules and Procedures form a contract of employment between Circuit City and me. I further understand that my signature to this Agreement in no way guarantees that Circuit City will accept my application for employment. If Circuit City does accept my application for employment and I become employed at Circuit City, this Agreement in no way alters the "at-will" status of my employment. I understand that my employment, compensation and terms and conditions of employment can be altered or terminated, with or without cause, and with or without notice, at any time, at the option of either Circuit City or myself. I understand that no store manager or representative of Circuit City, other than an Officer of Circuit City at the level of Vice President or above, has any authority to enter into any agreement for employment for any specific duration, to make any agreement contrary to the foregoing or to alter the Circuit City Dispute Resolution Rules and Procedures.

The Dispute Resolution Agreement and the Dispute Resolution Rules and Procedures affect your legal rights. You may wish to seek legal advice before signing this Dispute Resolution Agreement.

I have read this Agreement and understand that I should read the Dispute Resolution Rules and Procedures over the next few days.

I understand that I may withdraw my consent to this Agreement within three (3) days from the date on which I sign below by notifying the Applicant Screening Department in writing (including my Social Security number and the name of the place at which I applied for employment) that I am withdrawing my application for employment at Circuit City. The address for the Applicant Screening Department is:

Circuit City Stores, Inc.
Applicant Screening Department
9960 Mayland Drive
Richmond, VA 23233

I understand that by so notifying the Applicant Screening Department, I will not be bound to this Agreement and that I no longer will be eligible for employment at Circuit City. I recognize that if I sign the Agreement and do not withdraw within three days of signing I will be required to arbitrate any and all employment-related claims I may have against Circuit City, whether or not I become employed by Circuit City.

This Agreement will be enforceable throughout the application process, my employment, and thereafter with respect to any claims arising from or relating to my application or candidacy for employment, employment or cessation of employment with Circuit City. I then must arbitrate all my employment-related claims, and I may not file a lawsuit in court.

AGREED:

_____ Date: 10-23-95
Signature

547-45-8663
Social Security No.

Circuit City agrees to follow this Dispute Resolution Agreement and the Dispute Resolution Rules and Procedures in connection with the Associate whose signature appears above.

_____
William E. Zierden
Senior Vice President, Human Resources
Circuit City Stores, Inc.

Exhibit A Page 3 of 6

STOP!

IF YOU HAVE NOT SIGNED THE AGREEMENT...

If you have decided **not** to agree to the terms of the preceding DISPUTE RESOLUTION AGREEMENT then you do not need to complete the balance of this application. We appreciate your interest in the company.

IF YOU HAVE SIGNED THE AGREEMENT...

If you have decided at this time to **agree** to the terms of the preceding DISPUTE RESOLUTION AGREEMENT then you will need to complete the balance of this application so that we can continue with your application process.

15

EDUCATION AND TRAINING

CIRCLE LAST YEAR OF EDUCATION COMPLETED

GRADE SCHOOL 9 10 11 12 (13) (14) 15 16 17 18 19 20

HIGH SCHOOL ATTENDED: EUREKA HIGH — GRADE AVG.: 3.1

BUSINESS SCHOOL, TRADE SCHOOL, COLLEGE OR UNIVERSITY ATTENDED	COURSE OF STUDY (MAJOR AREA OF STUDY)	YRS. ATTENDED	DEGREE REC'D	GRADE AVG.
NAME: HEALD COLLEGE CITY & STATE: 474 ST. SAN FRANCISCO	ELECTRONICS	FROM 19 82 TO 19 83		3.7
NAME: COLLEGE OF THE REDWOODS CITY & STATE: EUREKA CA	GENERAL	FROM 19 81 TO 19 82		3.0
NAME: CITY & STATE:		FROM 19____ TO 19____		
NAME: CITY & STATE:		FROM 19____ TO 19____		

LIST ANY BUSINESS MACHINES YOU ARE CAPABLE OF OPERATING AND ANY OTHER SPECIAL SKILLS RELEVANT TO THE POSITION FOR WHICH YOU ARE APPLYING.

- [X] ADDING MACHINE
- [X] TYPEWRITER
- [ ] FORK LIFT
- [X] WORD PROCESSOR/COMPUTER
- [X] CALCULATOR
- [X] SWITCHBOARD
- [X] CASH REGISTER
- [X] SOFTWARE TRAINED IN _____

OTHER: _____

LIST ANY HOBBIES, INTERESTS, OR ANY OTHER SKILLS OR HONORS WHICH HAVE A DIRECT BEARING ON THE JOB YOU ARE SEEKING. IDENTIFY ANY LANGUAGES, OTHER THAN ENGLISH, YOU CAN SPEAK AND UNDERSTAND. YOU ARE NOT REQUIRED TO LIST ANY INFORMATION WHICH MIGHT REVEAL YOUR RACE, RELIGION, SEX OR NATIONAL ORIGIN.

EMPLOYMENT HISTORY

LIST ALL JOBS, MILITARY SERVICE, VERIFIABLE VOLUNTEER WORK AND SELF-EMPLOYMENT IN THE USA, BEGINNING WITH PRESENT JOB. INCLUDE ANY PERIODS OF UNEMPLOYMENT GREATER THAN 1 MONTH IN DURATION. PRINT CLEARLY.

YOU MUST COMPLETE THIS SECTION IN ITS ENTIRETY EVEN IF YOU INCLUDE A RESUME.

NAME OF COMPANY, ADDRESS, STATE TELEPHONE NUMBER	DATES OF EMPLOYMENT MONTH-YEAR	RATE OF PAY	NAME & PHONE NUMBER OF SUPERVISOR	DUTIES & RESPONSIBILITIES	REASON FOR LEAVING
CO. NAME EMERALD CITY STREET P.O. BOX 816 CITY & STATE WINDSOR CA PHONE # 707-575-4648 JOB TITLE OWNER	4-88 FROM CURRENT TO VARIOUS # HRS/WK	STARTING ENDING CIRCLE: HR WK MO YR	NAME OF SUPERVISOR ( ) (AREA) PHONE # MAY WE CONTACT? ☐ YES ☐ NO	SALES, SERVICE COMPUTER REPAIR TRAINING, AND DATA PROCESSING	NOT LEAVING SEEKING SUPPLEMENT INCOME
CO. NAME MCI STREET 201 SPEAR ST CITY & STATE SAN FRANCISCO PHONE # 415-978-1100 JOB TITLE NETWORK ADMINISTRATOR CUSTOMER SERVICE	1985 FROM 1991 TO 37 # HRS/WK	15,000 STARTING 32,000 ENDING CIRCLE: HR WK MO (YR)	PERSONEL NAME OF SUPERVISOR (415) 978-1100 (AREA) PHONE #	COMPUTER INPUT, SUPERVISION CUSTOMER SERVICE NETWORK ENGINEERING	COMPANY LAY O
CO. NAME SUPER SHIRTS STREET JEFFERSON ST CITY & STATE SAN FRANCISCO PHONE # UNKNOWN JOB TITLE ASS. STANT MGR	1984 FROM 1985 TO 45 # HRS/WK	13,000 STARTING SAME ENDING CIRCLE: HR WK MO (YR)	PERSONEL NAME OF SUPERVISOR (UNKNOWN (AREA) PHONE #	INVENTORY, PERSONEL SUPERVISON, SCHEDULING, SALE, BANKING	LEFT TO FOR MC
CO. NAME DENNYS STREET C ST CITY & STATE EUREKA, CA PHONE # UNKNOWN JOB TITLE HOST/CASHIER SHIFT SUPERVISOR	1980 FROM 1982 TO # HRS/WK	3.50 STARTING 4.75 ENDING CIRCLE: (HR) WK MO YR	PERSONEL NAME OF SUPERVISOR (UNKNOWN (AREA) PHONE #	CUSTOMER SERVICE CASHIERING SHIFT SUPERVISION	MOVE TO SAN FRA
CO. NAME ~~BANK OF AMERICA~~ STREET MONTGOMERY CITY & STATE SAN FRANCISCO PHONE # UNKNOWN JOB TITLE FILE CLERK	1982 FROM 1984 TO 37 # HRS/WK	8,750 STARTING SAME ENDING CIRCLE: HR WK (MO)	PERSONEL NAME OF SUPERVISOR (UNKNOWN (AREA) PHONE #	DOCUMENT FILING	LEFT FO SUPER SH

HAVE YOU EVER WORKED FOR CIRCUIT CITY OR ANY OF ITS SUBSIDIARIES? ☐ YES ☒ NO
IF YES, WHERE _____ FROM _____ TO _____

HAVE YOU, WITHIN THE LAST TWELVE MONTHS, APPLIED FOR A POSITION WITH CIRCUIT CITY OR ANY OF ITS SUBSIDIARIES? ☐ YES ☒ NO IF YES, WHERE _____
APPROXIMATE DATE _____

DO YOU HAVE ANY FRIENDS OR RELATIVES EMPLOYED BY CIRCUIT CITY? ☐ YES ☒ NO
IF YES, PLEASE IDENTIFY _____

BEST AVAILABLE COPY

SOURCE OF REFERRAL: ☐ NEWSPAPER AD ☐ EMPLOYMENT AGENCY OTHER (SPECIFY)
☐ CURRENT CCS EMPLOYEE ☐ STATE EMPLOYMENT AGENCY Walk in
☐ COLLEGE RECRUITING ☐ FORMER CCS EMPLOYEE

ARE YOU ELIGIBLE TO WORK IN THE USA? ☒ YES ☐ NO

IF UNDER 18 YEARS OF AGE DO YOU HAVE A WORK PERMIT? ☐ YES ☐ NO
N/A

HAVE YOU, SINCE THE AGE OF 18, BEEN CONVICTED OF A FELONY? ☐ YES ☒ NO
IF YES, PLEASE EXPLAIN. _____
A CONVICTION WILL NOT NECESSARILY EXCLUDE YOU FROM EMPLOYMENT. EACH CONVICTION WILL BE JUDGED ON ITS OWN MERITS WITH RESPECT TO THE TIME, CIRCUMSTANCES AND SERIOUSNESS.

SPECIFIC TITLE OF POSITION APPLIED FOR: SALES - COMPUTER SERVICE
TYPE OF WORK DESIRED: ☒ FULL TIME ☐ REGULAR ☒ PART TIME ☐ SEASONAL

DATE AVAILABLE TO BEGIN WORK: 10-23-95
SALARY/WAGE EXPECTED: $ _____ PER YR. $ _____ PER HR. SCALE

LIST HOURS AND DAYS YOU ARE AVAILABLE TO WORK.

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
FROM		←	OPEN			→	
TO							

PLEASE READ CAREFULLY AND SIGN BELOW:

I hereby certify that all of the information contained in this application is complete and accurate to the best of my knowledge. I understand that, if employed, omissions or false or inaccurate statements on this application or the Loss Prevention interview may result in dismissal.

I hereby authorize all prior employers, schools, credit bureaus, Social Security Administration, law enforcement agencies and investigative agencies to give Circuit City Stores, Inc. any and all information concerning my previous employment and any pertinent information they may have, personal or otherwise, concerning my qualifications for the position applied for. I release all persons or entities from all liability for any damage that may result from furnishing information to Circuit City Stores, Inc. I also release Circuit City Stores, Inc. and all of its employees from all liability for any damage that may result from reliance on the information furnished. I understand that if a consumer investigative report is requested, I have the right under the Fair Credit Reporting Act to request in writing, within a reasonable time, a complete and accurate disclosure of the nature and scope of the investigation. This written request should be addressed to the location where this application is filed.

If employed by Circuit City Stores, Inc., I agree to abide by its policies, rules and regulations. I understand and agree that my employment is at-will, and therefore, my employment and compensation can terminate, with or without cause, at any time, at my option or the option of Circuit City Stores, Inc. I further understand and agree that this at-will employment relationship will remain in effect throughout my employment with Circuit City Stores, Inc. or any of its affiliated companies, unless it is modified by a specific written employment contract for a special duration which is signed by an officer of Circuit City Stores, Inc. at the level of Vice President or above and me. This at-will employment relationship may not be modified by any oral or implied agreement.

I understand that this application is completed for the position or positions indicated on page 6 and that it will be necessary to reapply for other positions when they become available. I also understand that this application is good for only thirty (30) days from today's date. If I still desire to be considered for a position with the company after this application expires, it will be my responsibility to complete a new application and file it with the company.

[signature] 10-23-95
SIGNATURE OF APPLICANT DATE SIGNED

CENHMTD1 NEW HIRE MAINTENANCE SCREEN 1 S2PERDISPW
CENHMTR1 COPPER

Emp	SS#	Last Name	First Name	Loc	Status	Appl Date	Scren C
CCS	547548663	ADAMS	ST CLAIR	0237	TMFT		

Hire Dt	Fax Dt	Orig Dt	S Tax	F Tax	I - 9	Visa Exp
120195						

ADR Date	ADR Code	Medical Med Ap/Wv C Cov	Dental Dnt Ap/Wv C Cov	Life/Sp Ap/Wv C	LTD Ap/Wv C	New Assoc C

TJTC Form C	Mag-Moss Date C	Srv Tch Cond C	Notify Emplr C	CC Sls Cnslr C	CC Sls Comp C	Check Dedct C	Casual Labor C

Hist Sheet Reprint	Labels Only	Paperwrk Comp Date
N		13096

CMD3=EXIT CMD12=PREV. CMD14=PROMPT CMD24=DELETE

18

Exhibit B Page 1 of 1

Exhibit C [to Declaration of Pamela G. Parsons]

CIRCUIT

CITY

Dispute Resolution

Rules and Procedures

Dear Circuit City Applicant:

Thank you for considering employment with Circuit City. Circuit City has enjoyed tremendous success and growth over the past several years. Our associates have played an integral role in our success, and Circuit City works very hard to treat all applicants and associates fairly and with respect.

As you read through our employment application, you will note that Circuit City has implemented an arbitration procedure to provide quick, fair, final and binding resolution of employment-related legal claims. If you have signed Circuit City's Dispute Resolution Agreement and then wish to withdraw your consent, you must do so within three (3) days. Please notify Circuit City's Applicant Screening Department in writing (including your Social Security number and the name of the place at which you applied for employment) that you no longer desire for Circuit City to consider your application for employment. The address for the Applicant Screening Department is:

Circuit City Stores, Inc.
Applicant Screening Department
9960 Mayland Drive
Richmond, VA 23233

We appreciate your interest in Circuit City and hope you decide to start the application process by signing the Dispute Resolution Agreement and completing the employment application.

CIRCUIT CITY DISPUTE RESOLUTION RULES AND PROCEDURES

Rule 1. PURPOSE

Circuit City (the Company) has established an employment dispute resolution procedure, culminating in formal arbitration, designed to provide Associates with a fair, private, exclusive, expeditious, final and binding means for resolving legal disputes arising out of, or relating to, their employment with Circuit City, without the need for litigation in federal, state or local courts. These Dispute Resolution Rules and Procedures govern arbitrations held pursuant to the Circuit City Dispute Resolution Agreement.

Rule 2. CLAIMS SUBJECT TO ARBITRATION

Except as otherwise limited herein, any and all employment-related legal disputes, controversies or claims of an Associate arising out of, or relating to, an Associate's application or candidacy for employment, employment or cessation of employment with Circuit City or one of its affiliates shall be settled exclusively by final and binding arbitration before a neutral, third-party Arbitrator selected in accordance with these Dispute Resolution Rules and Procedures. Arbitration shall apply to any and all such disputes, controversies or claims whether asserted against the Company and/or against any employee, officer, alleged agent, director or affiliate company.

All previously unasserted Associate claims arising under federal, state or local statutory or common law shall be subject to arbitration. Merely by way of example, these claims include, but are not limited to, claims arising under the

Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964, as amended, including the amendments of the Civil Rights Act of 1991, the Americans with Disabilities Act (ADA), the Fair Labor Standards Act (FLSA), 42 U.S.C. § 1981, as amended, including the amendments of the Civil Rights Act of 1991, the Employee Polygraph Protection-Act,-the. Employee Retirement Income Security Act (ERISA), the National Labor Relations Act, state discrimination statutes, state statutes and/or common law regulating employment termination, the law of contract or the law of tort; including, but not limited to, claims for malicious prosecution, wrongful discharge, wrongful arrest/wrongful imprisonment, intentional/ negligent infliction of emotional distress or defamation.

Claims by Associates for state employment insurance (e.g., unemployment compensation, workers' compensation, worker disability compensation) shall not be subject to arbitration. Statutory or common law claims alleging that Circuit City retaliated or discriminated against an Associate for filing a state employment insurance claim, however, shall be subject to arbitration.

Rule 3. DISMISSAL/STAY OF COURT PROCEEDINGS

By agreeing to the Dispute Resolution Program, an Associate agrees to resolve through arbitration all claims described in or contemplated by Rule 2. If an Associate files-a lawsuit in court to resolve claims subject to arbitration, the Associate agrees that the Court shall dismiss the lawsuit and require the Associate to arbitrate the dispute.

If an Associate files a lawsuit in court involving claims which are, and other claims which are not, subject to arbitration, the Associate agrees that the court shall stay litigation of the nonarbitrable claims and require that arbitration take place with respect to those claims subject to arbitration. The Associate further agrees that the Arbitrator's decision on the arbitrable claims, including any determinations as to disputed factual or legal issues, shall be entitled to full force and effect in any later court lawsuit on any nonarbitrable claims.

Rule 4. COMMENCEMENT OF ARBITRATION

Rule 5. PROCEDURE

An Associate shall commence an arbitration by filing the attached Circuit City Associate Arbitration Request Form with a required filing fee of $75 (made payable with a cashier's check or money order to Circuit City Stores, Inc.) to:

Arbitration Coordinator
Circuit City Stores, Inc.
9960 Mayland Drive
Richmond, Virginia 23233-1464

Rule 6. TIME LIMITS

a. FILING OF REQUEST FOR ARBITRATION

The "Circuit City Associate Arbitration Request Form" shall be submitted not later than one year after the date on which the Associate knew, or through reasonable diligence should have known, of the facts giving rise to the Associate's claim(s). The failure of an Associate to initiate an arbitration within the one-year time limit shall

constitute a waiver with respect .to that dispute relative to- that Associate.

b. CIRCUIT CITY'S RESPONSE

Within 21 calendar days of receipt of an Associate's Arbitration Request Form and the accompanying filing fee, the Company shall send the Company's Response to the Associate via certified or registered mail, or hand delivery.

The Response, which also shall be mailed to the Associate's attorney if one has been retained, shall describe the Company's position regarding the allegations in the Associate's Arbitration Request Form.

Rule 7. NOTICE/OTHER FILINGS

All other communications, notices or filings, including discovery requests and responses, shall be in writing and shall be deemed to have been given if (i) delivered by hand to a person of suitable age and discretion; or (ii) mailed first class, registered mail, postage prepaid, as follows:

If to Circuit City: Arbitration Coordinator
Circuit City Stores, Inc.
9960 Mayland Drive
Richmond, Virginia 23233-1464

If to the Associate: (i) to the Associate's address of record as it appears on the Arbitration Request Form; or

(ii) to the Associate's attorney as designated in the Arbitration Request Form or

later designated in writing by the Associate.

Rule 8. SELECTION OF AN ARBITRATOR

Circuit City and the Associate shall participate equally in the selection of an Arbitrator to decide the arbitration. Within 21 calendar days after the Company receives the Associate's Arbitration Request Form, the American Arbitration Association (AAA) shall be asked to provide a panel of seven (7) neutral arbitrators with experience deciding employment disputes. The Company and the Associate then shall have the opportunity to review the background of the arbitrators by examining the materials provided by the AAA. Within seven (7) calendar days after the panel composition is received, the Associate and the Company each shall inform the AAA which arbitrators the Parties find unacceptable for deciding the dispute. The AAA then will appoint an Arbitrator from among the named individuals the Parties found acceptable.

Rule 9. TIME AND PLACE OF ARBITRATION

The arbitration hearing shall be held at the offices of, or a location selected by, the AAA. in the city nearest the location of the Associate's last employment with the Company, unless the Parties agree otherwise. If the AAA does not select an arbitration location within fifty (50) miles of the city of the Associate's last employment with the Company, the Associate and the Company shall designate a mutually amenable location at which to hold the arbitration.

The Parties and the Arbitrator shall make every effort to see that the arbitration is completed, and an award rendered, as soon as possible. There

shall be no extensions of time or delays of an arbitration hearing except in cases where both Parties consent to the –extension or delay, or where the Arbitrator finds such a delay or extension necessary to resolve a discovery dispute or other matter relevant to the arbitration.

Rule 10. REPRESENTATION

Both the Associate and the Company shall have the right to be represented by counsel.

Rule 11. DISCOVERY

Rule 12. INITIAL DISCLOSURE

Within fourteen (14) calendar days following the appointment of an Arbitrator, the Parties shall provide each other with copies of ail documents (except for privileged documents that are protected from disclosure because they involve attorney-client, doctor-patient or other -legally privileged or protected communications or materials) upon which they rely in support of their claims or defenses. Throughout the discovery phase, each Party shall provide the opposing Party with any and all documents relevant to any claim or defense.

Upon request, the Associate shall be entitled to a copy of all documents (except privileged documents as described above) in the Associate's "PERSONNEL RECORDS FILE."

Rule 13. OTHER DISCOVERY

a. INTERROGATORIES/ DOCUMENT REQUESTS

Each Party may propound one set of 20 interrogatories (including subparts) to the opposing Party. Interrogatories are written

questions asked by one party to the other, who must answer under oath. Such interrogatories may include a request for all documents upon which the responding party relies in support of its answers to the interrogatories. Answers to interrogatories must be served within 21 calendar days of receipt of the interrogatories.

b. DEPOSITIONS

A deposition is a statement under oath that is given by one party in response to specific questions from the other party, and usually is recorded or transcribed by a court reporter. Each Party shall be entitled to take the deposition of up to three (3) individuals of the Party's choosing. The Party taking the deposition shall be responsible for all costs associated therewith, such as the cost of a court reporter and the cost of a transcript.

c. ADDITIONAL DISCOVERY

Upon the request of any Party and a showing of substantial need, the Arbitrator may permit additional discovery, but only if the Arbitrator finds that such additional discovery is not overly burdensome, and will not unduly delay conclusion of the arbitration.

Rule 14. DISCOVERY DISPUTES

The Arbitrator shall decide all disputes related to discovery. Such decisions shall be final and binding on the Parties. In ruling on discovery disputes, the Arbitrator shall be guided by the discovery rules contained -in the Federal Rules of. Civil Procedure.

Rule 15. TIME FOR COMPLETION OF DISCOVERY

All discovery shall be completed in an expeditious manner. In order to expedite the arbitration, the Parties may initiate discovery prior to the appointment of the Arbitrator. The Parties and the Arbitrator shall make every effort to complete all discovery within sixty (60) calendar days after the selection of the Arbitrator.

Rule 16. HEARING PROCEDURE

Rule 17. WITNESSES

Witnesses shall testify under oath, and the Arbitrator shall afford each Party a sufficient opportunity to examine its own witnesses and cross-examine witnesses of the other Party. Either Party may issue subpoenas compelling the attendance of any other person necessary for the issuing Party to prove its case.

a. SUBPOENAS

A subpoena is a command to an individual to appear at a certain place and time and give testimony. A subpoena also may require that the individual bring documents when he or she gives testimony. The Arbitrator shall have the authority to enforce and/or cancel such subpoenas provided that such subpoenas are issued no less than 10 calendar days prior to the commencement of an arbitration hearing or deposition. The Party issuing the subpoena shall be responsible for the fees and expenses associated with the issuance and enforcement of the subpoena, and with the attendance of the subpoenaed witness at the arbitration hearing.

b. SEQUESTRATION

The Arbitrator shall ensure that all witnesses who will testify at the arbitration are not influenced by the testimony of other witnesses. Accordingly, the Arbitrator may sequester all witnesses who will testify at the arbitration, provided that the Arbitrator shall permit the Associate bringing the arbitration and the Company's designated representative to remain throughout the arbitration, even though they may or may not testify at the hearing.

Rule 18. EVIDENCE

The parties may offer evidence that is relevant and material to the dispute and shall produce any and all nonprivileged evidence which the Arbitrator deems necessary to a determination of the dispute. The Arbitrator need not specifically follow the Federal Rules of Evidence, although they may be consulted to resolve questions regarding the admissibility of particular matters.

Rule 19. BURDEN OF PROOF

An Associate has the burden of proving a claim or claims by a preponderance of the evidence. To prevail, an Associate must prove that the Company's conduct with respect to the Associate was a violation of applicable law

Rule 20. BRIEFING

Each Party shall have the opportunity to submit one pre-hearing and one post-hearing brief, which is a written statement of facts and law, in support of its position. Briefs shall be typed and shall be limited in length to 20 double-spaced pages.

Pre-hearing briefs may be submitted no later than ten (10) calendar days prior to a scheduled arbitration hearing. Post-hearing briefs may be submitted no later than twenty (20) calendar days after the Parties receive the transcript of the arbitration from the reporting service.

Rule 21. TRANSCRIPTION

The Parties may arrange for transcription of the arbitration by a certified reporter. The parties shall share evenly the costs of the reporter and transcription, subject to the provisions of Rule 13 below.

Rule 22. CONSOLIDATION

a. CLAIMS

The Arbitrator shall have the power to hear as many claims as an Associate may have against the Company consistent with Rule 2 of these Dispute Resolution Rules and Procedures. The Arbitrator may hear additional claims that were not mentioned in the Arbitration Request Form, provided the Associate adding claims notifies the Company at least 30 calendar days prior to a scheduled arbitration, the additional claims are timely as of the date on which they are added and the Company is not prejudiced in its defense by such addition.

b. PARTIES

The Arbitrator shall not consolidate claims of different Associates into one proceeding, nor shall the Arbitrator have the power to hear an arbitration as a class action (a class action involves an arbitration or lawsuit where representative members of a large group who

claim to share a common interest seek relief on behalf of the group).

Rule 23. CONFIDENTIALITY

All aspects of an arbitration pursuant to these Dispute Resolution Rules and Procedures, including the hearing and record of the proceeding, shall be confidential and shall not be open to the public, except (i) to the extent both Parties agree otherwise in writing; (ii) as may be appropriate in any subsequent proceeding between the parties, or (iii) as may otherwise be appropriate in response to a governmental agency or legal process.

All settlement negotiations, mediations, and the results thereof shall be confidential.

Rule 24. SUBSTANTIVE CHOICE OF LAW

The Arbitrator shall apply the substantive law of the State in which the Associate is or was predominantly employed. For claims arising under federal law, the Arbitrator shall. follow the substantive law applicable to the United States District Court for the District in which the Associate is or was predominantly employed.

Rule 25. ARBITRATOR AUTHORITY

The Arbitrator shall conduct the arbitration and shall have the authority to render a decision in accordance with these Dispute Resolution Rules and Procedures, and in a manner designed to promote rapid and fair resolution of disputes.

Rule 26. JURISDICTION

The Arbitrator's authority shall be limited to deciding the case submitted by the Associate. Unless the Associate is subject to a contract

providing for the employment of the Associate under specified terms or for a given duration, the Associate's employment remains alterable at the discretion of the Company and/or terminable at any time, at the will of either the Associate or the Company, with or without just cause. Accordingly, the Arbitrator shall have.no authority to require that Circuit City have "just cause" to discipline or discharge an Associate or to change the terms and conditions of employment of an Associate unless specifically required by federal, state or local law, or as a remedy for a violation of applicable law by the Company with respect to the Associate.

Rule 27. SANCTIONS

The Arbitrator shall have the power to award sanctions against a Party for the Party's failure to comply with these Dispute Resolution Rules and Procedures or with an order of the Arbitrator. These sanctions may include assessment of costs, prohibitions of evidence, or, if justified by a Party's wanton or willful disregard of these Dispute Resolution Rules and Procedures, an adverse ruling in the arbitration against the Party who has failed to comply.

Rule 28. AWARD

Within 21 calendar days after receipt of post-hearing briefs, if any, the Arbitrator shall mail to the parties a written award specifying appropriate remedies, if any. In the Arbitrator's discretion, the award may include findings of fact and conclusions of law.

The Parties to an arbitration shall be provided with a copy of the Arbitrator's award.. Other Associates who have agreed to arbitration may

request copies of arbitration decisions in a given case. In cases where an arbitration decision is provided to an Associate who was not a Party to the particular arbitration, the Party-Associate's name shall be deleted from the arbitration decision unless the Party-Associate agrees otherwise in writing.

Rule 29. FEES AND EXPENSES

Rule 30. COSTS OTHER THAN ATTORNEY FEES

1. Definitions

Costs of an arbitration include the daily or hourly fees and expenses (including travel) of the Arbitrator who decides the case, filing or administrative fees charged by the AAA, the cost of a reporter who transcribes the proceeding, and expenses of renting a room in which the arbitration is held. Incidental costs include such items as xeroxing or the costs of producing witnesses or proof.

2. Filing Fee/Costs of Arbitration

An Associate initiating an arbitration shall pay a filing fee of seventy-five dollars ($75) made payable with a cashier's check or money order to Circuit City Stores, Inc. Circuit Cify -shall advance the remainder of the costs of the arbitration. Each Party shall advance its own incidental costs and pay its own attorney fees. Subject to the other provisions of this . Rule set forth below, each Party shall pay one-half of the costs of arbitration following the issuance of the arbitration award.

3. Shifting of Costs

If the Associate prevails in arbitration, whether or not monetary damages of remedies are awarded,

the filing fee shall be refunded to the Associate, and the Arbitrator may require that Circuit City pay the Associate's share of the costs of arbitration and incidental costs. If Circuit City prevails in arbitration, the Arbitrator may require the Associate to pay Circuit City's share of the costs of arbitration and incidental costs.

4. Payment of Costs

The Parties shall pay all previously unpaid arbitration costs within ninety (90) calendar days of the issuance of the arbitration award. If the Associate is required to pay some or all of the costs or fees of arbitration and either pays, or makes arrangements to pay, said costs or fees within ninety (90) calendar days after the issuance of the arbitration award, the Associate's liability for the costs and fees of arbitration, other than attorney fees, shall be limited to three percent (3%) of the Associate's most recent annual compensation at Circuit City. If the Associate fails to pay, or fails to make arrangements to pay, the Associate's share of fees and costs within ninety (90) calendar days, the three percent (3%) cap shall not apply.

If the Associate fails to pay within ninety (90) calendar days, and the Associate is still employed by the Company, Circuit City may deduct the amount owed from the Associate's paycheck. Such deduction may not exceed a rate of five percent (5%) of the Associate's compensation per pay period.

Rule 31. ATTORNEY FEES

Each Party generally shall be liable for its own attorney fees. If the Associate prevails in arbitration, the Arbitrator shall have discretion to

award the Associate reasonable attorney fees. If Circuit City prevails in the arbitration, the Arbitrator shall have discretion to require the Associate to pay the Company's reasonable attorney fees if the Arbitrator finds that the Associate's claim was frivolous, or presented in bad faith or for an improper purpose, such as to harass the Company.

An award of attorney fees to either Party shall. be reasonable in light of the amount and complexity of work involved in the arbitration, and in accordance with customary billing rates of attorneys in the geographic area in which the arbitration is held.

Rule 32. REMEDIES AND DAMAGES

If the Arbitrator finds for the Associate, the Arbitrator, in his discretion, may award one or more of the following:

1. Injunctive relief, including reinstatement to the position of employment the Associate held or, if such reinstatement is impractical, to a comparable position-at-the location of the Associate's last employment;

2. If reinstatement at the place of the Associate's last employment is not practical, reinstatement to a comparable position at Circuit City in the same general geographic market area;

3. Full or partial back pay and reimbursement for lost fringe benefits, but only up to one year from the point at which the Associate knew or should have known of the events giving rise to the alleged violation of law, with interest, reduced by interim earnings, public or private benefits received, and

amounts that could have been received with reasonable diligence;

4. If reinstatement is not practical or reasonable under the circumstances, recognizing that in only rare cases will reinstatement be impractical but nevertheless warranted, the Arbitrator may award up to 24 months of front pay in lieu of reinstatement;

5. Compensatory damages in accordance with applicable law;

6. Punitive damages in an amount up to the greater of:

(a) an amount equal to the monetary award, if any, rendered pursuant to Subsections 3 and/or 4 of this Rule; or

(b) $5,000.

Rule 33. SETTLEMENT

The Parties may settle their dispute at any time. Prior to closure of the arbitration hearing, the Parties may settle the case without involvement of the Arbitrator. Once the hearing has closed, settlement may take place only with approval of the Arbitrator.

At any point prior to the Arbitrator's issuance of an award, the Parties may, by agreement, refer their dispute to mediation before a mediator provided by the AAA.

Rule 34. ENFORCEABILITY

The Dispute Resolution Agreement and any award rendered pursuant to it shall be enforceable and subject to the Federal Arbitration Act, 9 U.S.C. § 1, et seq. and the Uniform Arbitration Act of Virginia, 8.01-581.01 et seq., regardless of

the State in which the arbitration is held or the substantive law applied in the arbitration.

Rule 35. APPEAL RIGHTS

The award rendered by the Arbitrator shall be final and binding as to both the Associate and the Company. Either party may appeal the Arbitrator's decision to a court in accordance with the appeal procedures of the Federal Arbitration Act, 9 U.S.C. § 1 et seq. or the Uniform Arbitration Act of Virginia, 8.01-581.01 et seq.

Rule 36. SEVERABILITY/CONFLICT WITH LAW

In the event that any of these Dispute Resolution Rules and Procedures agreed upon by the Parties is held to be in conflict with a mandatory provision of applicable law; the conflicting Rule or Procedure shall be modified automatically to comply with the mandatory provision of applicable law until such point as these Dispute Resolution Rules and Procedures maybe modified in accordance with Rule 19 below. In the event of an automatic modification with respect to a particular Rule or Procedure, the remainder of these Rules and Procedures shall not be affected. An automatic modification of one of these Rules or Procedures shall be applicable only in the jurisdiction. in which it is in conflict ,~vith a mandatory provision of--law. In all other jurisdictions, these Dispute Resolution Rules and Procedures shall apply in full force and effect.

Rule 37. TERMINATION OR MODIFICATION OF DISPUTE RESOLUTION AGREEMENT OR DISPUTE RESOLUTION RULES AND PROCEDURES

Circuit City may alter or terminate the Agreement

and these Dispute Resolution Rules and Procedures on December 31st of any year upon giving 30 calendar days written notice to Associates, provided that all claims arising before alteration or termination shall be subject to the Agreement and corresponding Dispute Resolution Rules and Procedures in effect at the time the claim arose. An Associate shall be deemed to have accepted a modification or termination of the Dispute Resolution Agreement or the Rules and Procedures by accepting or continuing employment with Circuit City after receiving notice of such modification or termination.

CIRCUIT CITY.

Circuit City Stores, Inc.
9950 Maryland Drive
Richmond, VA 23233-1464

Where Service is State of the Art®

ARBITRATION REQUEST FORM

(Please Print or Type)

Name: SAINT CLAIR ADAMS Social Security No.: 547-45-0663

Telephone: (707) 575-4648

Address of Record: P.O. Box 816 — Windsor
Street City

CA 95492
State Zip

Position: Sales Counselor (Home/Off Status (full or part time): was F/T

Date of Hire: November 3, 1995 Date of Incident: February 27, 1996 through November 30, 1996

Store/Place of Employment: Santa Rosa

Please state the dispute you wish to have decided by an Arbitrator. Please explain why you believe the Company's actions were unlawful and state the basis for your claim (e.g., discrimination on the basis of sex, race, religion, national origin, etc., retaliation for filing of workers' compensation claims or other).

Sexual harassment by fellow employees and supervisors; supervisors' failure to remedy situation in a timely manner; discrimination on the basis of sex/gender and sexual orientation; created hostile work environment which forced my resignation (constructive discharge); all of the aforementioned caused substantial emotional distress. All incidents were reported to supervisors, yet nothing was done for several months.

(Please attach additional sheets if necessary)

Please include the names of any witnesses to the Company's alleged unlawful action.

Scott Stevens; Derrick Iman; Geoff Collins; Garret Belcher; Steve Svanson; Braden Mears; Skip Miller; James Galimo; Gerry Geisinger; Randy Tusi; Eve Hawkins; Cory Day; Sonya Minkle; and Tom Prince

BEST AVAILABLE COPY

That Circuit City acknowledge its lack of a timely response to my complaints and develop adequate sensitivity training; that Circuit City compensate me for the income, benefits, and work experience I lost as a result of the aforementioned unlawful acts; that I be further compensated for the resulting emotional distress I was forced to endure.

(Please attach additional sheets if necessary)

If you will be represented by an attorney, please identify that person below.

ANGELA ALIOTO

Name of Representative

LAW OFFICES OF JOSEPH L. ALIOTO & ANGELA ALIOTO

538 Sacramento Street, 4th Floor, San Francisco, CA 94111

Address

(415) 434-8700

Telephone

I hereby submit the above-described dispute for arbitration. I agree to accept the decision and award of the Arbitrator as final and binding as to all claims relating to my employment relationship with Circuit City or its affiliate which have been or could have been raised under my Arbitration Agreement with Circuit City. I understand that to initiate this arbitration, I must submit with this Request Form a filing fee of seventy-five dollars ($75) in the form of a cashier's check or money order made payable to Circuit City Stores, Inc. I understand that unless the Arbitrator rules otherwise, I will be responsible for the fees of my own attorney should I retain one and for one-half of the arbitration fees and expenses, as set forth in Rule 13 of the Circuit City Dispute Resolution Rules and Procedures.

SIGNED:

Associate — December 5, 1997 — Date

By: Associate's Attorney — Law Offices of Joseph L. Alioto & Angela Alioto — December 5, 1997 — Date

Exhibit D Page 2 of 2

-CONFIDENTIAL-

CIRCUIT CITY
Where Service is State of the Art ®

-CONFIDENTIAL-

ARBITRATION RESPONSE FORM

Saint Clair Adams
Name of Associate Requesting Arbitration

547-45-8663
Social Security No.

Associate's Immediate Supervisor

12/ 9 / 97
Date of Receipt of Arbitration Request Form

Circuit City's position regarding the allegations in the Arbitration Request Form of the above-named Associate:

Circuit City denies the allegations made by Mr. Adams, and further denies that Mr. Adams is entitled to any relief whatsoever.

(Please attach additional sheets if necessary)

Please designate who will represent Circuit City in the Arbitration.

Rex Darrell Berry
Name of Representative

Davis, Grimm & Payne

1111 - 3rd Avenue, Suite 1865, Seattle, WA, 98101
Address

(206) 447-0182
Telephone

I hereby certify that the foregoing Circuit City Arbitration Response Form was sent via first class mail on 12/30/97 to St. Clair Adams, c/o Angela Alioto, the Associate requesting arbitration, at the following address:

Law Offices of Joseph L. Alioto and Angela Alioto
558 Sacramento St., 4th Floor
San Francisco, CA 94111

Signature of Company Representative

12/29/97
Date

Attorney
Title

Exhibit E Page 1 of 1

REX DARRELL BERRY, ESQ. (CSB#110219)
DAVIS, GRIMM & PAYNE
1111 Third Avenue, Suite 1865
Seattle, WA 98101
Telephone: (206) 447-0182
[Northern District Admission Pending]

ROSEMARY KIRBACH, ESQ. (CSB#149465)
PAUL HASTING JANOFSKY & WALKER LLP
345 California Street, 29th Floor
San Francisco, CA 94104-2635
Telephone: (415) 835-1600

Attorneys for Petitioner
CIRCUIT CITY STORES, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CIRCUIT CITY STORES, INC., a Virginia corporation, Petitioner/Plaintiff, vs. SAINT CLAIR ADAMS, a California resident, Respondent/Defendant.	CASE NO. C98-0365 CAL OPINION AND ORDER STAYING STATE COURT ACTION AND COMPELLING ARBITRATION AND DENYING RULE 11 SANCTIONS

THIS MATTER, having come regularly before the Court and the Court having considered the Notice of Hearing on Petition to Stay State Court Action and to Compel Arbitration; Petition to Stay State Court Action and to Compel Arbitration; Memorandum of Points and Authorities in Support Thereof; Declaration of Pamela G. Parsons in

Support of Petition to Stay State Court Action and to Compel Arbitration and exhibits thereto; Defendant's Memorandum of Points and Authorities in Opposition to Motion [sic] to Stay State Court Action and to Compel Arbitration; Declaration of Saint Clair Adams in Opposition to Petition to Stay State Court Action and to Compel Arbitration and exhibits thereto; and Circuit City's Reply Memorandum in Support of Petition to Stay State Court Action and to Compel Arbitration; as well as Circuit City's Notice of Motion and Motion for Rule 11 Sanctions; Memorandum of Points and Authorities in Support Thereof; Declaration of Rex Darrell Berry in Support of Motion for Rule 11 Sanctions and exhibits thereto; Defendant's Memorandum of Points and Authorities in Opposition to Motion to Impose Rule 11 Sanctions; Declaration of Angela M. Alioto in Opposition to Plaintiffs Motion to Impose Rule 11 Sanctions; and Reply Memorandum of Petitioner Circuit City Stores, Inc. in Support of Motion for Sanctions; and the parties having appeared at oral argument through their respective counsel of record; and the Court being fully advised; now, therefore,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Circuit City's Petition to Stay State Court Action and to Compel Arbitration is GRANTED. The basis for this Order is set forth in the Court's oral opinion, a copy of which is attached as Exhibit A hereto, and is incorporated by reference. The California Superior Court action entitled "Saint Clair Adams v. Circuit City Stores. Inc., Derrick Iman; Scott Stevens, Geoff Collins and DOES 1 through 10, inclusive," Sonoma County Superior Court Case No. S-CV-217898 is hereby STAYED in its entirety pending completion of the arbitration of this dispute. All claims raised by Respondent in the Sonoma County Superior Court lawsuit Case No. S-CV-217898, are hereby compelled into arbitration pursuant to the Dispute Resolution Agreement between Respondent and Circuit City.

2. Circuit City's Motion for Rule 11 Sanctions is DENIED. The basis for this Order also is set forth in the Court's oral opinion, and is incorporated by reference.

DONE IN OPEN COURT this 29th day of April, 1998.

/S/ Charles A. Legge
United States District Court Judge

[Presented by:

DAVIS, GRIMM & PAYNE

By /S/ RB
Rex Darrell Berry, CSB#110219
Attorneys for Plaintiff Circuit City Stores, Inc.]

Exhibit A [to Opinion and Order Staying State Court Action and Compelling Arbitration]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE CHARLES A. LEGGE, JUDGE

CIRCUIT CITY STORES, INC., A VIRGINIA CORPORATION, PETITIONER, VS. SAINT CLAIR ADAMS, A CALIFORNIA RESIDENT, RESPONDENT.	NO. C 98-0365 CAL

SAN FRANCISCO, CALIFORNIA
FRIDAY, APRIL 3, 1998

APPEARANCES:

FOR PETITIONER: DAVIS, GRIMM & PAYNE
1111 THIRD AVENUE
SUITE 1865
SEATTLE, WASHINGTON 98101
BY: REX DARRELL BERRY
ATTORNEY AT LAW

FOR RESPONDENT: LAW OFFICES OF JOSEPH L. ALIOTO AND ANGELA ALIOTO
558 SACRAMENTO STREET
4TH FLOOR
SAN FRANCISCO, CA 94111
BY: ANGELA M. ALIOTO
STEVEN L. ROBINSON
ATTORNEYS AT LAW

FRIDAY, APRIL 3 1998 9:45 A.M.

THE CLERK: CIVIL ACTION 98-0365, CIRCUIT CITY STORES, INC., VERSUS SAINT CLAIR ADAMS.

COUNSEL, YOUR APPEARANCES, PLEASE.

MS. ALIOTO: ANGELA ALIOTO FOR PLAINTIFF, YOUR HONOR.

MR. ROBINSON: STEVEN L. ROBINSON WITH THE PLAINTIFF.

MR. BERRY: GOOD MORNING, YOUR HONOR. REX BERRY ON BEHALF OF CIRCUIT CITY, THE PETITIONING PARTY.

THE COURT: ALL RIGHT. THIS IS THE PETITIONER'S MOTION TO STAY THE STATE COURT PROCEEDINGS AND TO COMPEL ARBITRATION.

I'VE GONE OVER THE MOVING AND OPPOSING PAPERS, AND DOES EITHER SIDE HAVE ANYTHING FURTHER YOU'D LIKE TO ADD?

MR. BERRY: ONLY IN RESPONSE TO WHATEVER QUESTIONS THE COURT MIGHT HAVE.

THE COURT: ALL RIGHT. I DON'T THINK IT'S NECESSARY.

COUNSEL, DO YOU WANT TO ADD ANYTHING?

MS. ALIOTO: NO, YOUR HONOR.

THE COURT: ALL RIGHT. THIS IS THE PETITIONER'S MOTION TO COMPEL ARBITRATION AND TO STAY THE STATE COURT PROCEEDINGS PENDING THAT ARBITRATION.

THERE WAS A CIVIL ACTION FILED BY THE RESPONDENT HERE AGAINST THE PETITIONER HERE AND THREE OTHERS IN SUPERIOR COURT, AND THE ALLEGATION IS DISCRIMINATION AND

ALLEGED HARASSMENT BY THE EMPLOYER BASED ON THE PLAINTIFF'S SEXUAL ORIENTATION.

AND THEN THE PETITIONER, THE COMPANY, HAS COME TO THIS COURT AND REQUESTED A STAY OF THE STATE COURT ACTION AND AN ORDER COMPELLING THE ARBITRATION.

THE ARBITRATION ARISES FROM THE DISPUTE RESOLUTION AGREEMENT WHICH WAS SIGNED BY -- I'LL REFER TO THE RESPONDENT HERE AND THE PLAINTIFF IN THE STATE COURT CASE AS MR. ADAMS -- SIGNED BY MR. ADAMS.

THE RECORD INDICATES TO ME THAT THERE BEGAN SOME EMPLOYMENT PROBLEMS THAT ADAMS BROUGHT TO SOMEBODY'S ATTENTION IN NOVEMBER OF 1996 AND THAT HE THEN LEFT CIRCUIT CITY AS AN EMPLOYEE IN NOVEMBER OF 1996 OF COURSE COMPLAINING EFFECTIVE DISCHARGE.

HE ALSO FILED A REQUEST FOR ARBITRATION WHEN HE LEFT THAT I HAVE HERE AND I'LL REFER, TO IN MORE DETAIL IN A MOMENT. THE RECORD DOESN'T INDICATE THAT CIRCUIT CITY REPLIED TO THAT WRITTEN REQUEST FOR ARBITRATION UNTIL THE ACTION IS FILED IN STATE COURT.

NOW, THE FIRST QUESTION, OF COURSE, IS WHETHER THIS COURT HAS JURISDICTION TO BE ENTERING AN ARBITRATION ORDER; AND IT'S CLEAR THE COURT HAS TO HAVE JURISDICTION, SUBJECT MATTER JURISDICTION, OVER THE MATTER THAT'S INDEPENDENT OF THE BASIC FEDERAL ARBITRATION ACT. THAT'S 9 U.S. CODE, SECTION 1.

CIRCUIT CITY ALLEGES DIVERSITY

JURISDICTION; AND, INDEED, MR. ADAMS IS A CALIFORNIA RESIDENT AND CIRCUIT CITY IS A VIRGINIA CORPORATION WITH ITS PRINCIPAL PLACE OF BUSINESS IN VIRGINIA.

THE COMPLAINT IN STATE COURT ALSO ALLEGES THREE INDIVIDUAL DEFENDANTS AS SUPERVISORS; BUT FOR PURPOSES OF DIVERSITY AND FOR ALL PETITIONS TO COMPEL, I AM TO CONSIDER THE CITIZENSHIP SIMPLY OF THE PLAINTIFF AND THE PARTY WITH WHOM HE SIGNED THE ARBITRATION AGREEMENT, AND THAT IS CIRCUIT CITY. SO I BELIEVE THAT I HAVE SUBJECT MATTER JURISDICTION.

THERE'S NO DISPUTE THAT MR. ADAMS SIGNED THE DISPUTE RESOLUTION AGREEMENT, WHICH CONTAINS THIS ARBITRATION CLAUSE, WHEN HE WAS HIRED IN 1995, BUT HE RAISES CERTAIN ARGUMENTS AS TO WHY THE ARBITRATION REQUIREMENT SHOULD NOT BE ENFORCED.

ONE IS THAT HE DID APPARENTLY REQUEST SOME ARBITRATION IN 1996 IN NOVEMBER AND DIDN'T RECEIVE ANY REPLY TO THAT, SO HE ARGUES THAT CIRCUIT CITY HAS WAIVED IT.

HOWEVER, WHEN I LOOK AT THE ARBITRATION DEMAND, WHICH IS A LETTER OF NOVEMBER 22ND, 1996, THE REQUEST FOR ARBITRATION JUST REFERS TO AN APPEAL OF BENEFITS. IT REALLY DOES NOT MAKE ANY REFERENCE TO THE CLAIMS NOW MADE HERE; THAT IS, THAT THERE WAS SEXUAL HARASSMENT OR PERHAPS DISCRIMINATION AND HOSTILE WORK ENVIRONMENT.

SO SINCE HE DID NOT RAISE THAT ISSUE SPECIFICALLY IN HIS NOVEMBER 22ND, 1996, DEMAND FOR ARBITRATION, I DON'T

BELIEVE THAT THE COMPANY HAS WAIVED ITS RIGHT TO COMPEL ARBITRATION IN THIS CASE. ,

MR. ADAMS ALSO MAKES THE ARGUMENT THAT THE ARBITRATION AGREEMENT IS AN UNCONSCIONABLE CONTRACT OF ADHESION, BUT I BELIEVE IT'S CLEAR HERE THAT THE CONTRACT IS TO BE INTERPRETED TO BIND BOTH PARTIES, THAT IS, MR. ADAMS AND THE COMPANY, TO ARBITRATION.

THERE ARE, INDEED, SOME LIMITATIONS ON THE RECOVERY STATED IN THIS ARBITRATION AGREEMENT, BUT I DON'T BELIEVE THAT THEY AMOUNT TO THE EXTREME ONE-SIDEDNESS THAT'S REQUIRED FOR A FINDING OF UNCONSCIONABILITY AS A MATTER OF LAW, AND I'M REFERRING SPECIFICALLY TO THE GOLENIA, G-O-L-E-N-I-A CASE, DIDONATO, D-I-D-O-N-A-T-O, CASE, AND O'NEIL VERSUS HILTON.

SO IN VIEW OF THE STRONG STATE AND FEDERAL POLICY, PARTICULARLY THE FEDERAL POLICY ANNOUNCED IN THE ARBITRATION ACT, I FIND THAT THE CONTRACT IS ENFORCEABLE.

THE ARGUMENT IS MADE THAT THIS WOULD BE CONTRARY TO THE ANTI-INJUNCTION ACT. HOWEVER, I THINK IT'S CLEAR FROM THE U.S. SUPREME COURT DECISION IN MOSES COHN, THAT THE ANTI-INJUNCTION ACT DOES NOT PREVENT A FEDERAL COURT TO -- FROM ENTERTAINING A PETITION TO COMPEL ARBITRATION, AND THAT'S TRUE EVEN THOUGH THE UNDERLYING SUIT -- THE UNDERLYING DISPUTE TO BE ARBITRATED IS ONE PENDING IN STATE COURT.

SO I THINK THERE IS AMPLE AUTHORITY UNDER BOTH FEDERAL AND STATE LAW FOR COMPELLING ARBITRATION EVEN --COMPELLING

ARBITRATION IN THE STATE COURT DISPUTE AND TO STAY A STATE COURT ACTION PENDING COMPLETION OF THAT ARBITRATION.

THAT'S BEEN DONE IN SEVERAL CASES. JUST TWO EXAMPLES ARE WILLIAMS & ASSOCIATES VERSUS MC MAHON AND NETWORK CINEMA AGAINST GLASSBURN, AND THEN ALSO CIRCUIT CITY AGAINST GONZALES IN THE EASTERN DISTRICT OF CALIFORNIA.

SO FOR ALL THOSE REASONS, THE MOTION TO COMPEL ARBITRATION AND TO STAY WILL BE GRANTED.

THE MOTION FOR RULE 11 SANCTIONS WILL BE DENIED. I THINK THE OPPOSITION IS IN GOOD FAITH WITH SOME LEGAL SUPPORT FOR IT; AND ALTHOUGH I'M RULING AGAINST THE RESPONDENT ON THIS MATTER, I DO NOT BELIEVE IT'S ONE WHERE RULE 11 SANCTIONS ARE CALLED FOR.

SO I WILL ASK THE PETITIONER HERE TO SUBMIT AN ORDER FOR SIGNATURE THAT GRANTS THE ARBITRATION AND STAYS THE STATE COURT PROCEEDING.

THANK YOU.

MR. BERRY: THANK YOU, YOUR HONOR.

MS. ALIOTO: ALL RIGHT. THANK YOU VERY MUCH, YOUR HONOR.

(WHEREUPON PROCEEDINGS ADJOURNED AT 9:50 A.M.),

CERTIFICATE OF REPORTER

I, JO ANN BRYCE, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS.

/S/ Jo Ann Bryce

JO ANN BRYCE, CSR, RPR, RMR, CRR

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 98-15992

CIRCUIT CITY STORES, INC., a Virginia corporation,
Plaintiff-Appellee,

v.

Saint Clair ADAMS, a California resident,
Defendant-Appellant.

Argued and Submitted Oct. 4, 1999.
Decided Nov. 18, 1999.

Angela Alioto, Steven L. Robinson, Law Offices of Mayor Joseph L. Alioto & Angela Alioto, San Francisco, California, for the defendant-appellant.

Rex Darrell Berry, Davis, Grimm & Payne, Seattle, Washington, for the plaintiff-appellee.

Appeal from the United States District Court for the Northern District of California; Charles A. Legge, District Judge, Presiding. D.C. No. CV-98- 00365-CAL.

Before: FLETCHER, D.W. NELSON, and BRUNETTI, Circuit Judges.

PER CURIAM:

This is an appeal from the district court's final order compelling arbitration under the Federal Arbitration Act, 9 U.S.C.A. § 1, et seq. (West 1999) ("FAA"). We have jurisdiction pursuant to 28 U.S.C. § 1291. The district court, however, lacked the authority, as a matter of substantive law, to compel arbitration because the Federal Arbitration Act does not apply to this case. In Craft v. Campbell Soup Co.,

177 F.3d 1083, 1094 (9th Cir.1999), we held that the FAA does not apply to labor or employment contracts.

Factual and Procedural Background

Saint Clair Adams appeals the district court's order staying the state court action and compelling arbitration. Circuit City sought mutually binding arbitration under Section 4 of the FAA in response to Adams's state court lawsuit under the California Fair Employment and Housing Act ("FEHA"). On October 23, 1995, Adams completed a six-page application to work at Circuit City Stores. On pages two and three of the application, Adams signed a document titled "Circuit City Dispute Resolution Agreement" ("DRA"). The DRA requires that employees submit all claims and disputes to mutually binding arbitration.[1] An employee cannot work at Circuit City without signing the DRA. If the employee signs the DRA and then withdraws consent within three days, the employee "will no longer be eligible for employment at Circuit City."

Standard of Review

The Ninth Circuit reviews de novo the district court's order compelling arbitration. See Zolezzi v. Dean Witter Reynolds, Inc., 789 F.2d 1447, 1449 (9th Cir.1986). The existence of subject matter jurisdiction is a question of law reviewed de novo. See Galt G/S v. JSS Scandinavia, 142 F.3d 1150, 1153 (9th Cir.1998).

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[1] The DRA specifies that job applicants agree to settle "all previously unasserted claims, disputes or controversies arising out of or relating to my application or candidacy for employment, employment and/or cessation of employment with Circuit City, exclusively by final and binding arbitration before a neutral Arbitrator. By way of example only, such claims include claims under federal, state, and local statutory or common law, such as Age Discrimination in Employment Act, Title VII of the Civil Rights Act of 1964, as amended, including the amendments to the Civil Rights Act of 1991, the Americans with Disabilities Act, the law of contract and law of tort."

Discussion

Circuit City sought arbitration pursuant to Section 4 of the FAA and asserted jurisdiction pursuant to Section 4 and 28 U.S.C. § 1332. We recognize that the FAA is not a jurisdictional statute:

> [The FAA] is something of an anomaly in the field of federal-court jurisdiction. It creates a body of federal substantive law establishing and regulating the duty to honor an agreement to arbitrate, yet it does not create any independent federal question jurisdiction under [§ 1331] or otherwise. Section 4 provides for an order compelling arbitration only when the federal district court would have jurisdiction over a suit on the underlying dispute; hence, there must be diversity of citizenship or some other basis for federal jurisdiction.

Moses H. Cone Hospital v. Mercury Constr. Corp., 460 U.S. 1, 25 n. 32, 103 S.Ct. 927, 74 L.Ed.2d 765 (1983). In this case, we need not consider whether the district court had underlying federal question jurisdiction because the FAA is inapplicable. As a threshold matter, therefore, the district court lacked the authority under Section 4 of the FAA to compel arbitration.

We must find that the FAA is inapplicable to this case under Craft if the DRA is an employment contract. This court has defined an "employment contract" as "an agreement setting forth 'terms and conditions' of employment." Modzelewski v. Resolution Trust Corp., 14 F.3d 1374, 1376 (9th Cir.1994) (quoting Black's Law Dictionary 525 (6th ed.1990)).

We find that the arbitration agreement in this case was an employment contract notwithstanding the disclaimer in the DRA. The DRA specifically states: "I understand that neither this Agreement nor the Dispute Resolution Rules and Procedures form a contract of employment between Circuit City and me." Furthermore, it says that "this Agreement in

no way alters the 'at-will' status of my employment." Though the DRA may not alter Adams's status as an at-will employee, the agreement was a condition precedent to his employment. The agreement was an employment contract, rendering the FAA inapplicable. See Craft, 177 F.3d at 1094. Thus, we reverse the district court's order compelling arbitration and remand to the district court for dismissal because of a lack of federal authority.

REVERSE AND REMAND.